

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JAN 21 2012 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

RICHARD WOLFSON, On Behalf of Himself and All
Other Persons Similarly Situated,

Plaintiff,

v.

WHIRLPOOL CORPORATION,

Defendant.

x

Case No. 11-cv-2669-ADS-WDW

LONG ISLAND OFFICE

**NOTICE OF MOTION TO
DISMISS AND TO STRIKE
CLASS ALLEGATIONS ON
BEHALF OF DEFENDANT
WHIRLPOOL CORPORATION**

x

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law and the Exhibit annexed thereto, all pleadings and proceedings herein, and pursuant to Federal Rules of Civil Procedure 8(a), 12(b)(6), 12(f) and 23(d)(1)(D), Defendant Whirlpool Corporation, by its attorneys, Leader & Berkon LLP and Wheeler Trigg O'Donnell LLP, moves this Court, before the Honorable Arthur D. Spatt, United States District Judge, United States District Court for the Eastern District of New York, 100 Federal Plaza, Central Islip, New York 11722, for an Order dismissing Plaintiff's Complaint for failure to state a claim upon which relief can be granted, and, in the alternative, if the Complaint were to survive dismissal, for an Order striking Plaintiff's class allegations, together with such other and further relief as this Court may deem just and proper.

In light of the plaintiff's consent to the filing of the amended complaint and submission of an answer to the amended complaint, the Court deems this motion withdrawn without prejudice.

So Ordered.

(s) Judge Arthur D. Spatt
U.S. District Court Judge
Arthur D. Spatt, U.S.D.J.
1/21/12